

CHAPTER 13

SENTENCING AND MILITARY CORRECTIONS

Introduction

Commanders are the cornerstone of the military justice system. When deciding whether to court-martial a soldier in their unit, commanders must remember that courts-martial serve two complementary purposes: enforcing unit discipline and administering justice.

What expectations should commanders have regarding court-martial sentences? The discussion that follows covers various aspects of sentencing. Commanders should consider these matters when determining what action to take on pending charges.

A. Purposes of Punishment

An organization comprised of well-disciplined soldiers will carry out its mission and function efficiently. Although good leadership is the best method of achieving discipline, deterrence of crime and protection of the military community are closely associated with discipline. A few undisciplined soldiers in an organization can cause disciplinary problems to spread and impair a unit's efficiency.

An essential ingredient of good leadership is fair treatment of subordinates by superiors. A soldier who is treated fairly will learn to respect the Army's disciplinary procedures. A sentence which is either too light or too severe can undercut discipline and result in disrespect for the law; whereas, fair sentences tend to foster good discipline and thereby protect the interests of the military community.

There are five recognized theories of punishment:

1. **Retribution**. Retribution has long been high on the list of reasons for punishment. Under this theory, the purpose of punishment is to make the offender pay for a crime by pain and suffering and to express the community's outrage and disappointment. The amount and type of punishment are based upon the offense(s). Retribution is based upon retaliation and vengeance.

Punishment based upon retribution is not the dominant objective of modern criminal law. Today we believe that punishment should fit the offender and not merely the crime.

2. **Deterrence**. A second purpose of punishment is deterrence. Deterrence has two objectives: to provide the offender with a sentence that deters him or her from committing future crimes (specific deterrence); and to dissuade others who might engage in similar criminal conduct (general deterrence). Deterrence is effective in punishing an individual only when he or she knows in advance that breaking the law will be followed by certain and swift punishment. Thus,

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commanders may consider publishing court-martial findings and sentences throughout the command.

3. Rehabilitation. A recurrent theme of modern military penology is rehabilitation of the offender. The great majority of offenders come out of prison some day, and their sentences should be formulated to promote rehabilitation. Rehabilitation contemplates individualized treatment permitting the offender to return as a useful and productive member of society, whether military or civilian.

Under this theory, emphasis is placed on the offender as an individual, and the sentence is a means by which he or she can be compelled to receive individualized treatment which will help make him or her a useful and responsible member of society. The field of rehabilitation is controversial and in ferment, but rehabilitation remains a core principle of the military justice system.

4. Protection of Society. The protection of society theory combines aspects of retribution, deterrence, and rehabilitation, but has its roots in one of the fundamental purposes of confinement: keeping dangerous or predatory offenders from victims and potential future victims. The fact that confinement is warranted for protection of society does not answer the next question: how long? That involves balancing all five sentencing theories.

5. Good Order and Discipline. The last judicially recognized purpose of punishment ties the others together. Good order and discipline means ensuring that the military community is safe, that a sense of justice exists in which criminal conduct is punished and good behavior is rewarded, and in which misbehaving soldiers are rehabilitated simultaneous with their punishment. Courts-martial entrust panel members to assess the impact of the crime on good order and discipline and to consider how good order and discipline can be buttressed by a fair and just sentence.

B. Functions of the Commander

1. Disposition of Cases. Congress has given disciplinary powers to certain members of the armed forces as a public trust. These powers must be exercised in the name of the United States in a manner befitting this trust.

A commander must be aware of the severity of punishments which may be adjudged by the various forums in order to make an intelligent disposition of or recommendation regarding the case.

The initial punishing authority is required by law to exercise absolute and unfettered individual judgment. One should not be concerned with possible future actions of higher authority on the punishment; rather the punishing authority should adjudge an appropriate punishment based on the circumstances of the case.

2. Review. As a convening authority, the commander refers charges to the lowest court that has the power to adjudge an appropriate sentence. As the reviewing authority, the

commander approves the sentence or part of the sentence found to be correct in law and fact and determined to be appropriate.

REFERENCE: R.C.M. 1107.

C. Duties as a Court Member

1. In General. Court members deliberate and vote after the military judge instructs them on sentence. Only the members are present during deliberations and voting. Panel members may not use seniority in rank to control the independence of junior members in the exercise of their judgment.

2. Deliberations. Deliberations include a full and free discussion of the sentence to be imposed in the case. Members may normally take their notes with them during deliberations and will also be allowed to examine any exhibits which have been admitted and any written instructions. If requested, the military judge may allow the court to be reopened to allow the members to have portions of the record played back or to have more evidence introduced.

3. Proposal of Sentences. Any member may propose a sentence. Each proposal shall be in writing and shall contain the complete sentence proposed. The junior member collects the proposed sentences and submits them to the president.

4. Voting. Each member votes for a proper sentence for the offenses of which the court-martial found the accused guilty, regardless of the member's vote or opinion as to the guilt of the accused. The president places the sentence proposals in voting order beginning with the least severe. The vote is by secret written ballot beginning with the least severe and continuing, as necessary, with the next least severe, until a sentence is adopted by the concurrence of the number of members required under the circumstances. A two-thirds vote is required to adopt a sentence; however, a three-quarters vote is required for sentences that include more than 10 years of confinement, and a unanimous vote is required to impose the death penalty.

REFERENCE: R.C.M. 1006.

D. Matters to Consider

Anyone who attempts to judge another's conduct should be aware of what is involved. Court members must make an impartial diagnosis of the problem and must understand the remedies available within the military. In most civilian jurisdictions, the judge--not the jury--imposes sentence on a convicted offender. A thorough investigation of the offender's record, termed the "presentence report," is prepared to assist the judge in assessing a proper sentence. In the military, either the judge or the court members arrive at an appropriate sentence; there is no presentence report. Court-martial procedure authorizes both the prosecution and defense to present, after findings, certain material which will assist the court in determining the kind and amount of punishment.

1. Aggravation. Regardless of the plea, after findings of guilty, the trial counsel may present evidence directly related to or resulting from the offense(s) for which an accused is to be sentenced so that the aggravating circumstances are understood by the sentencing body.

In addition to matters in aggravation, the trial counsel may present evidence of admissible prior convictions and matters from the personnel records of the accused that reflect past conduct or performance, including, but not limited to, any Article 15s or Letters of Reprimand which are properly maintained in the accused's personnel records. Finally, the trial counsel may call witnesses to express opinions about the accused's past duty performance and potential for rehabilitation as a member of society. The trial counsel may not inquire into the specific bases of witnesses' opinions on duty performance and potential for rehabilitation unless the witness has been cross-examined on this issue by the defense.

REFERENCE: R.C.M. 1001(a), (b).

2. Extenuation. Matters in extenuation of an offense serve to explain the circumstances surrounding the commission of the offense, including the reasons that motivated the accused. For example, an accused convicted of a 5-day AWOL may explain the absence by relating a chain of events involving the death of a close relative, which at the time seemed to justify the unauthorized absence.

While this does not excuse the absence, it may help explain why this accused acted, and such an explanation could motivate a court to be lenient.

3. Mitigation. Matters in mitigation of an offense serve to bring to the court's attention evidence of the accused's prior good conduct, background, character of service, responsibilities, and other reasons that indicate leniency may be appropriate.

The military judge will allow the defense counsel latitude at this stage of the proceedings. For example, a properly authenticated letter from the accused's high school principal detailing the accused's good background could be considered as a matter in mitigation.

Also, examples of specific acts of bravery or prior good conduct may be presented. Proof may include prior conduct and efficiency ratings of the accused or witnesses who testify as to the accused's prior good conduct. The accused may also bring awards and decorations to the attention of the court. The accused may make a sworn or unsworn statement to the court. If the accused elects to make a sworn statement, the prosecution may cross-examine. If the accused makes an unsworn statement, the trial counsel may not cross-examine the accused about the statement but can rebut any factual inaccuracies with contradictory evidence. The accused may also elect to have counsel make an unsworn statement on his or her behalf even if the accused testifies.

REFERENCE: R.C.M. 1001(c).

E. Punishment Limitations and Effective Dates

1. General. The various types of punishment available to the sentencing authority are limited in two ways: (a) the sentence may not exceed the jurisdiction of the court-martial as to punishment; and (b) the sentence may not exceed the limitations on punishment for the convicted offense(s) defined in Part IV of the Manual for Courts-Martial.

2. Reprimand. Any court-martial may impose a reprimand as a lawful punishment. If a reprimand is imposed, the members do not determine the wording of the reprimand. Rather, the convening authority issues the reprimand as a part of the action.

3. Forfeiture of Pay. Effective 1 April 1996, the law regarding forfeitures of pay at courts-martial changed. According to Article 58b, UCMJ, maximum forfeitures authorized for that level court-martial take effect if the court-martial adjudges either of two triggering sentences. The triggers for automatic maximum forfeitures are sentences which include: a) more than six months confinement; or, b) a punitive discharge (bad conduct discharge, dishonorable discharge, or dismissal) and ANY confinement. The maximum forfeiture pursuant to Article 58b, UCMJ, at a general court-martial is total forfeiture of all pay and allowances; and at a special court-martial the maximum forfeiture is two-thirds of the soldier's base pay.

The law also gives the Convening Authority the option to waive forfeitures effected by operation of law for a period not to exceed six months, and to pay that money to the dependents of the accused soldier.

A second amendment to the UCMJ enacted in 1996 determines the effective dates of forfeitures or reduction in grade adjudged by courts-martial. Pursuant to new Article 57(b), UCMJ, any forfeitures or reduction from a court-martial take effect on the *earlier* of: a) 14 days after sentencing; **or**, b) the date on which the Convening Authority approves the sentence. Again, the law provides a means of temporarily easing the financial burden on the accused or dependents. The Convening Authority may, upon application of the accused, defer the reduction and the forfeitures from the 14 day point until approval of the sentence. The Convening Authority may rescind such deferral at any time, and without any due process requirements for the accused.

4. Fine. All courts-martial have the authority to adjudge fines. While a forfeiture deprives the accused of pay as it accrues, a fine is a judgment making the accused immediately liable to the United States for the total amount of money specified. General courts-martial have the power to adjudge fines in addition to forfeitures. Special and summary courts-martial have authority to impose fines as well as forfeitures so long as the combined amount is no greater than the jurisdictional limit of the court (i.e., two-thirds pay per month). Fines are effective on action by the convening authority.

5. Reduction in Grade. General and special courts-martial may reduce enlisted soldiers to the lowest or any intermediate enlisted grade. A reduction carries both the loss of military status and corresponding reduction of military pay. Any enlisted soldier who receives a sentence that includes either a punitive discharge (i.e., bad-conduct or dishonorable discharge) or confinement greater than 180 days/6 months, whether suspended or not, will be reduced to

private E-1 by operation of law (Article 58a, UCMJ and Army Reg. 27-10, Legal Services: Military Justice, Para. 5-28e(2) (6 September 2002)). A commissioned or warrant officer, or a cadet or midshipman may not be reduced in grade by any court-martial, except that, in time of war or national emergency, the Secretary concerned may commute a sentence of dismissal to reduction to any enlisted grade. Pursuant to Article 57(a), UCMJ, an adjudged reduction is effective 14 days after sentence is adjudged, or on the date of action by the Convening Authority, whichever is *earlier*. Automatic reduction (by operation of law) is effective upon convening authority action. **Thus, it is wrong for a commander or first sergeant to remove the stripes of a soldier sentenced to reduction immediately after a court-martial.**

6. Restriction. Restriction is a moral restraint requiring that an individual remain within a specific geographic area. For example, a sentence could include restriction to the company area. Regardless of the level of the court-martial, restriction may not exceed 60 days. In order to aid in the enforcement of this punishment, a person undergoing restriction may be required to report to a specified individual at a specified time. **Restriction is effective upon convening authority action.**

7. Hard Labor Without Confinement. A sentence to hard labor without confinement envisions an individual performing hard labor during available time in addition to regular military duties. Normally, the immediate commanding officer of the accused will determine the nature and amount of the duties that will constitute the hard labor. Hard labor without confinement may be adjudged only for enlisted soldiers. Hard labor without confinement may not exceed three months for a general or special court-martial and 45 days for a summary court-martial. A summary court-martial is without authority to impose hard labor without confinement upon enlisted soldiers in the grade of E-5 and above. **Hard Labor Without Confinement is effective upon convening authority action.**

8. Confinement. Only a general court-martial may impose confinement upon a commissioned officer or a warrant officer. A special court-martial may adjudge confinement for twelve months. A summary court-martial may confine an enlisted soldier below the grade of E-5 for one month. Confinement is effective immediately after the court-martial.

9. Bad-Conduct Discharge (BCD). Only enlisted soldiers may receive bad-conduct discharges. Bad-conduct discharges may only be adjudged by a general court-martial or by a special court-martial where a military judge was detailed, the accused was represented by counsel qualified under Article 27(b), UCMJ, a verbatim record of trial was prepared, and the servicing staff judge advocate prepared a pretrial advice in the Rule for Courts-Martial 406(b) format. The bad-conduct discharge is less severe than a dishonorable discharge and is designed as a punishment for bad conduct rather than dishonorable conduct. A bad-conduct discharge is effective only after appellate review is completed.

10. Dishonorable Discharge (DD). A dishonorable discharge may be adjudged only by general courts-martial and may be imposed upon appointed warrant officers and enlisted soldiers. The Manual for Courts-Martial provides that a dishonorable discharge should be reserved for those who should be separated under conditions of dishonor, after having been convicted of offenses usually recognized by the civilian legal system as felonies, or offenses of a

military nature requiring severe punishment. A dishonorable discharge is effective only after appellate review is completed.

11. Dismissal. A dismissal may only be adjudged by a general court-martial and only upon commissioned officers and commissioned warrant officers. It is the equivalent of a punitive discharge (BCD, DD). Dismissal may be adjudged for any violation of any article of the UCMJ (*i.e.*, not only those for which a BCD or DD is authorized). A dismissal is effective after appellate review is completed.

12. Death. The death penalty may be adjudged only if an accused is unanimously convicted of certain offenses (for example, premeditated murder or espionage) at a court-martial specifically empowered to adjudge the death penalty. A death sentence may not be adjudged unless all the court members find, beyond a reasonable doubt, that one or more aggravating factors exist. An example of an aggravating factor for premeditated murder is that the victim was a commissioned, warrant, or noncommissioned officer in the execution of the victim's office. If one or more aggravating factors are found beyond a reasonable doubt, a sentence of death may be adjudged only upon the unanimous vote of all the members that any extenuating or mitigating circumstances are substantially outweighed by any aggravating circumstances. A sentence of death includes a dishonorable discharge or dismissal and confinement as a necessary incident of a sentence of death but not a part of it. A sentence of death may not be suspended. The death penalty is effective only after appellate review is completed and after it is ordered executed by the President.

REFERENCE: R.C.M. 1003.

F. Additional Punishments (Recidivist Provisions)

R.C.M. 1003(d) of the Manual for Courts-Martial sets forth a number of circumstances which authorize increased punishment beyond that authorized by the maximum punishment listed in Part IV.

1. Three or More Convictions During the Past Year. If an accused has three or more previous convictions during the year prior to the commission of any offense for which he or she is convicted, the court may adjudge a dishonorable discharge, total forfeitures, and confinement for one year notwithstanding the lesser punishments authorized for the offense.

2. Two or More Convictions During the Past Three Years. If an accused has two or more previous convictions during the three years prior to the commission of any offense for which he or she is convicted, the court may adjudge a bad-conduct discharge, total forfeitures, and confinement for three months notwithstanding the lesser punishments authorized for the offense.

3. Offenses - Six Months. Finally, if an accused is found guilty of two or more offenses, none of which authorizes a bad-conduct discharge but the combined authorized confinement exceeds six months, the court-martial may also impose a bad-conduct discharge.

These rules are important to you as a commander and as a convening authority seeking to dispose of a case. For example, if you are a convening authority confronted with an accused that has committed two offenses for which no punitive discharge is authorized, your immediate reaction may be frustration because of your inability to seek a punitive discharge at a court-martial. Upon further reflection, however, the accused could be punitively discharged if prosecuted at a special or general court-martial because of the commission of two or more offenses which combined authorize confinement in excess of 6 months.

REFERENCE: R.C.M. 1003(d).

G. Powers of the Convening Authority with Regard to Sentence

1. Review. The convening authority shall approve that sentence which is warranted by the circumstances of the offense and appropriate for the accused. There is no requirement that the convening authority approve the sentence adjudged by the court. The convening authority may not, however, increase the sentence imposed by the court.

2. Alternatives. The convening authority may decide upon one of three courses of action when reviewing the sentence imposed by the court-martial. The convening authority may approve the sentence without change, approve a less severe sentence, or disapprove the entire sentence.

3. Legal Sentence. Many factors are involved in a commander's exercise of his discretion as the convening authority to approve a sentence which he or she feels is appropriate. The convening authority has a duty to approve only so much of a sentence as is legal. For example, if a summary court-martial sentences an accused to confinement for three months, the convening authority can only approve so much of the sentence as amounts to confinement for one month (the maximum sentence to confinement a summary court-martial can legally impose).

4. Suspension. The convening authority may take mitigating action by suspending all or part of a sentence. Suspension creates a probationary period for the accused. The period of suspension and the conditions upon which the suspension is granted are within the discretion of the convening authority. The suspension period may not be unreasonably long. (See also Army Reg. 27-10, Legal Services: Military Justice, Para. 5-34 (6 September 2002), that defines "reasonable periods" of suspensions.) Suspending sentences is a rehabilitative tool that may be appropriate in certain circumstances. R.C.M. 1108 governs the suspension process and commanders should consult with their staff judge advocates before ordering any suspension.

Should the offender commit another offense while serving a suspended sentence, the suspension may be vacated. If the case involves a bad-conduct discharge or a general court-martial sentence, a hearing must be held before the suspension can be vacated. The staff judge advocate should be consulted in such cases as there are important procedural requirements.

5. Reduction in Sentence. In addition to having the ability to suspend punishments, the convening authority may remit or commute the sentence in whole or in part. Reductions in sentence are always considered on a case-by-case basis. Examples of when a reduction in sentence may be appropriate are when a family requires support and substantial forfeitures have

been adjudged, or when a co-accused has been sentenced to a significantly less severe sentence and the interests of justice would be served by the reduction.

6. Deferment of Confinement. If the accused has been sentenced to a term of confinement, he or she may petition the convening authority, in writing, to defer the service of confinement. The accused has the burden of showing that the interests of the accused and the community in release outweigh the community's interests in immediate and continued confinement. Among the factors that the convening authority can consider are the nature of the offenses, the effect of the crime on the victim, the command's need for the accused, and the effect of deferment on good order and discipline in the command. The commander's decision must be in writing and must state the basis for denial. Denial of a request for deferment is subject to judicial review only for an abuse of discretion. If deferment is granted, the commander can include appropriate restrictions or conditions on the accused during the period of deferment. For example, the accused may be ordered not to enter a certain service club, housing area, or geographic area. These conditions must not be a substitute form of punishment. After deferment is granted, the convening authority may rescind the deferment, but the accused is entitled to notice and an opportunity to be heard.

7. Excess Leave. If an approved sentence includes an unsuspended dismissal or punitive discharge, the general court-martial convening authority may direct the soldier to take excess leave involuntarily to await discharge. Confinement included as part of the approved sentence must have been served, deferred, or suspended prior to the beginning of leave. A soldier does not accrue pay or allowances while on excess leave awaiting discharge.

REFERENCE: R.C.M. 1101(c); 1107; 1108; Army Reg. 600-8-10, Leaves and Passes: Personal Absences, Para. 5-19 thru 5-22 (31 July 2003).

H. Problem Areas

1. Inconsistent Sentences. Commanders should be aware of two problem areas with respect to inconsistent sentences. Occasionally, a court-martial may adjudge a sentence that includes confinement for greater than 180 days/6 months and an intermediate reduction of an enlisted service member (e.g., from E-5 to E-3). As explained, under Article 58a, UCMJ, and AR 27-10, Para. 5-28e(2), this soldier would be automatically reduced by operation of law to the lowest enlisted grade, E-1. The question in such a situation is what the court intended: a one-grade reduction or confinement regardless of the included reduction?

Another problem of a similar nature involves a sentence to a suspended bad-conduct discharge. Only the convening authority can suspend a sentence, not the court. The question is, would the court have awarded a bad-conduct discharge if they had known that the suspension would have no effect? In either event, the staff judge advocate should be consulted.

2. Improper Forfeitures. The wording of the sentence is critical in adjudging or approving forfeitures. A sentence which reads "forfeiture of \$40 for six months" amounts to a total forfeiture of \$40. On the other hand, a sentence which reads "forfeiture of \$40 pay per month for six months" amounts to a forfeiture of a total of \$240. Unless total forfeitures (i.e., forfeiture of ALL pay and allowances) are adjudged, partial forfeiture of pay (and/or allowances)

must be adjudged in whole dollar amounts per month for a specific number of months. This applies even if the sentence to confinement is adjudged in a term of years.

I. Confinement Facilities

1. United States Disciplinary Barracks (USDB). The USDB is located at Fort Leavenworth, Kansas. The general rule is that the USDB confines enlisted long-term prisoners (defined as more than one year remaining on a sentence after convening authority action and initial clemency consideration). In practice, Army prisoners with sentences in excess of seven years (and all officers) are transferred to the USDB. Additionally, the USDB confines long-term prisoners from other services, as well as all officer prisoners (regardless of length of sentence).

The mission of the USDB is two-fold: (a) to confine prisoners who are legally sentenced to confinement under the provisions of the UCMJ in a safe, secure environment; and (b) to provide the correctional treatment, training, care, and supervision necessary to return inmates to civilian life as useful, productive citizens with improved attitudes and motivation. Military discipline and courtesy are maintained within the USDB. Discipline and Adjustment Boards, convened by the Commandant of the USDB, review alleged violations of institutional rules and make recommendations to the Commandant for corrective action. The rules, programs, and activities of the USDB are discussed in USDB Regulation 600-1.

Shortly after arrival at the USDB, every inmate is evaluated by the staff of the Directorate of Mental Health. Specialized treatment is provided for many categories of inmates, such as child sex offenders and alcohol or drug abusers. The inmates also receive vocational training to prepare them for civilian employment.

2. Regional Confinement Facilities (RCF). Multi-service Regional Confinement Facilities are located throughout CONUS. The Army currently operates facilities at Fort Lewis, Washington; Fort Sill, Oklahoma; and Fort Knox, Kentucky. The Army also operates OCONUS facilities in Germany and Korea. Regional facilities operated by the Navy, Air Force, and Marines are also available for confinement of Army enlisted prisoners. The general rule is that Army enlisted prisoners with sentences that include confinement up to and including seven years are confined at the nearest Regional Confinement Facility.

Inmates who engage in misconduct are subject to Disciplinary and Adjustment Boards, punishment under the UCMJ, or possible transfer to the USDB. All prisoners assigned to the Regional Confinement Facilities receive individual evaluation, counseling, and treatment by social workers.

3. Installation Detention Facility (IDF). The 13 stateside IDFs have been replaced with the Regional Confinement Facilities. Two OCONUS IDFs remain at Mannheim, Germany, and Camp Humphreys, Korea. These OCONUS facilities are used for pretrial confinement and for post-trial confinement pending transfer to one of the CONUS RCFs.

CHAPTER 13
SENTENCING AND CORRECTIONS

TEACHING OUTLINE

I. INTRODUCTION.

II. PURPOSES OF PUNISHMENT.

- A. Retribution.
- B. Deterrence.
- C. Protection of society/protection of the victim.
- D. Rehabilitation.
- E. Good order and discipline.

III. COURT-MARTIAL PUNISHMENTS.

- A. No punishment.
- B. Reprimand.
- C. Forfeiture of pay and allowances.
- D. Fine.
- E. Reduction in pay grade.
- F. Restriction to specified limits.

G. Hard labor without confinement.

H. Confinement.

I. Punitive separations.

1. Bad conduct discharge.

2. Dishonorable discharge.

3. Dismissal.

J. Death.

IV. PRESENTENCING PROCEDURE.

A. Government performance and aggravation evidence.

B. Defense extenuation and mitigation.

C. Argument by counsel.

V. SENTENCING PROCEDURES.

A. Full and free discussion.

B. Sentences proposed.

C. Ranking of sentences.

D. Voting.

1. Secret written ballot.

2. Start with least severe.
3. The required concurrence.
 - a) Normally - 2/3.
 - b) 10 yrs. or more of confinement - 3/4.
 - c) Death - unanimous.

E. The sentence worksheet.

VI. CONVENING AUTHORITY'S POST-TRIAL RESPONSIBILITIES.

A. Initial action.

1. Command prerogative.
2. Must consider result of trial, SJA's recommendation, and any matters submitted by the accused.
3. May consider record of trial, accused's personnel records, and other appropriate matters.
4. May correct legal errors.
5. May act on the findings.
6. Must explicitly act on sentence.

B. Promulgating Order.

VII. CONFINEMENT.

- A. Old System.
- B. Consolidated DOD Confinement System.
 - 1. Regional Confinement Facilities (RCFs).
 - 2. United States Disciplinary Barracks, Fort Leavenworth, Kansas - All officers and long-term prisoners.
 - 3. Three Army RCFs: Forts Knox, Lewis, and Sill.
 - 4. Long-term prisoners.
 - 5. Short-term prisoners.
- C. Clemency and parole.
 - 1. Clemency.
 - 2. Parole.
 - 3. Good time.

VIII. COLLATERAL CONSEQUENCES.

- A. Housing.
- B. Medical benefits.
- C. Educational benefits.
- D. Veterans Administration benefits.
- E. Retirement benefits.

IX. CONCLUSION.

APPENDIX A

GENERAL COURT-MARTIAL SENTENCE WORKSHEET

After the Court has reached a sentence, the President shall circle the punishment(s) selected and accomplish any filling in or crossing out within the punishments selected.

_____, this court-martial sentences you:

1. To no punishment.

Reprimand

2. To be reprimanded.

Forfeitures, Etc.

3. To forfeit \$_____ pay per month for _____ month(s).
4. To forfeit all pay and allowances.
5. To pay the United States a fine of \$_____ (and to serve (additional) confinement of _____ (days/months/years) if the fine is not paid).

Reduction of Enlisted Personnel

6. To be reduced to _____.

Restriction

7. To be restricted to the limits of _____ for _____ (days/months).

Hard Labor

8. To perform hard labor without confinement for _____ (days/months).

Confinement

9. To be confined for _____ (days/months/years) (the length of your natural life with eligibility for parole) (the length of your natural life without eligibility for parole).

(cont. on back)

Punitive Discharge

10. To be discharged from the service with a bad-conduct discharge (enlisted personnel only).
11. To be dishonorably discharged from the service (enlisted personnel and noncommissioned warrant officers only).
12. To be dismissed from the service (commissioned officers, commissioned warrant officers, cadets, and midshipmen only).

Information Memorandum

SUBJECT: Prisoner Transfer Criteria and Sentence Statistics

1. The following guidelines control the transfer of post-trial confinees:

< or = 7 Yrs	Ft Knox RCF, Ft Lewis RCF, Ft Sill RCF, as well as
> 7 Yrs and all officers	United States Disciplinary Barracks at Ft Leavenworth
All females > 30 days	Miramar Consolidated Brig (U.S. Navy)

2. Overseas short-term facilities are: Coleman Barracks at Mannheim, Germany; and Camp Humphreys, Korea. Prisoners will be transferred at the earliest opportunity to a CONUS facility.

3. Sentence statistics (at USDB, for all prisoners): (data as of Oct 02).

**DEMOGRAPHICS**

Death Sentence	6
Life Sentence w/o Parole	5
Life Sentence	46
Officers	25
Inmates	436

Current as of :
October-02

United States Disciplinary Barracks



POPULATION BY SERVICE

USA	222
USAF	85
USMC	73
USN	55
USCG	1
Total	436

Current as of :
October-02

United States Disciplinary Barracks



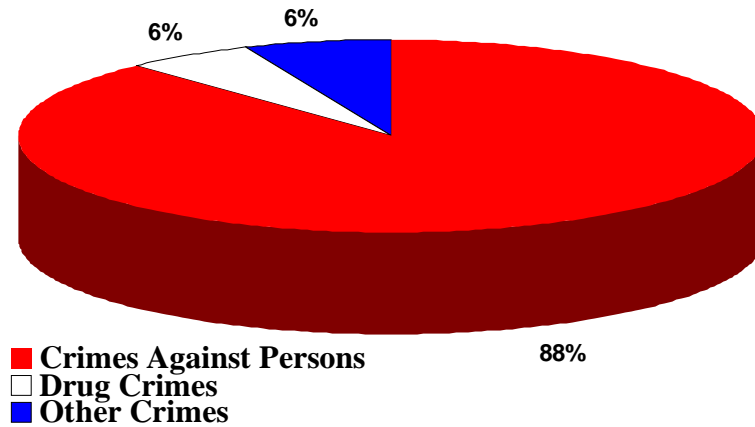
INMATE DEMOGRAPHIC TRENDS

	<u>1984</u>	<u>1994</u>	<u>Current</u>
Average Age	26.6	31.3	34.1
Average Sentence	9.0	12.4	18.8
Against Persons	62%	77%	88%
Sex Crimes	52%	64%	51%
Drugs	25%	11%	6%

United States Disciplinary Barracks



USDB INMATE OFFENSES



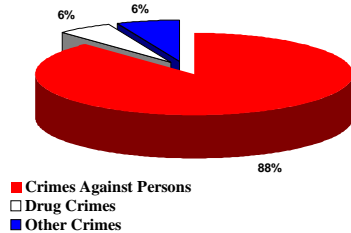
Current as of :
October-02

United States Disciplinary Barracks

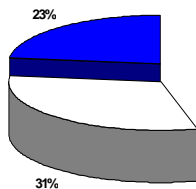
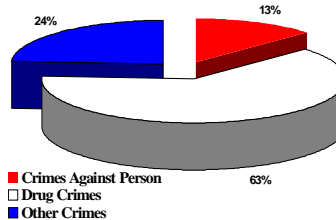


OFFENSE COMPARISONS

ARMY



FBOP



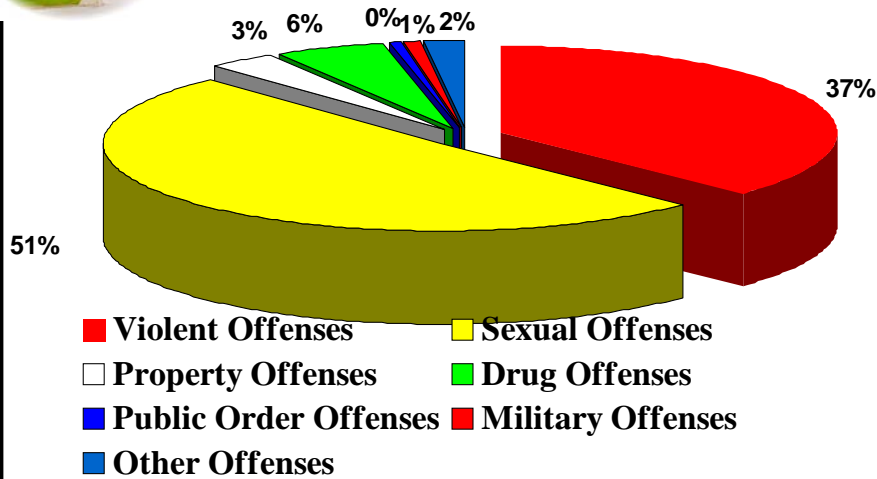
STATE PRISONS



United States Disciplinary Barracks



CONFINING OFFENSES

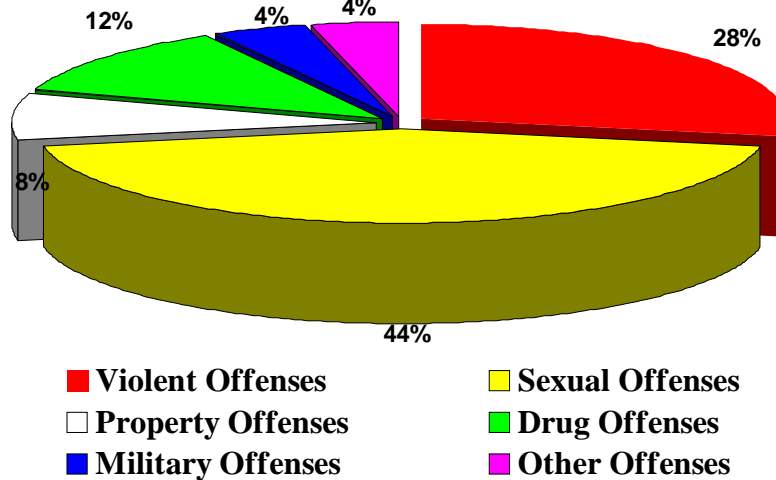


Current as of:
October-02

United States Disciplinary Barracks



OFFICER OFFENSES



Current as of:
October-02

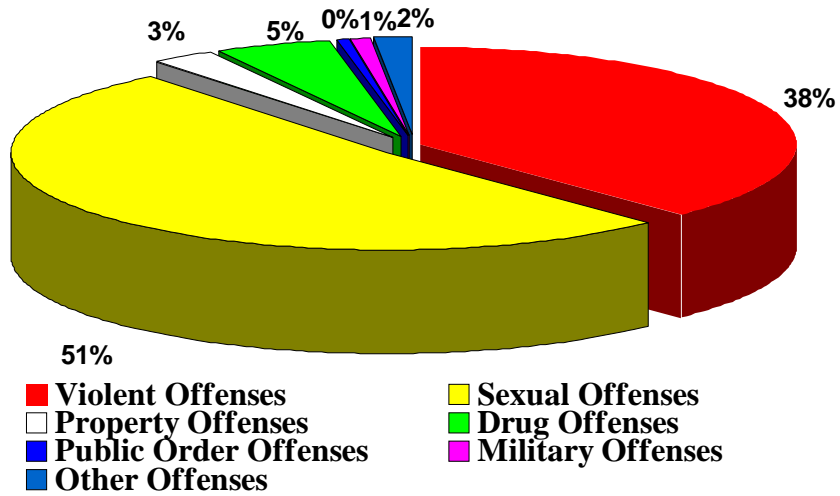
United States Disciplinary Barracks

ALCS-ADC

SUBJECT: Prisoner Transfer Criteria and Sentence Statistics



ENLISTED OFFENSES



Current as of :
October-02

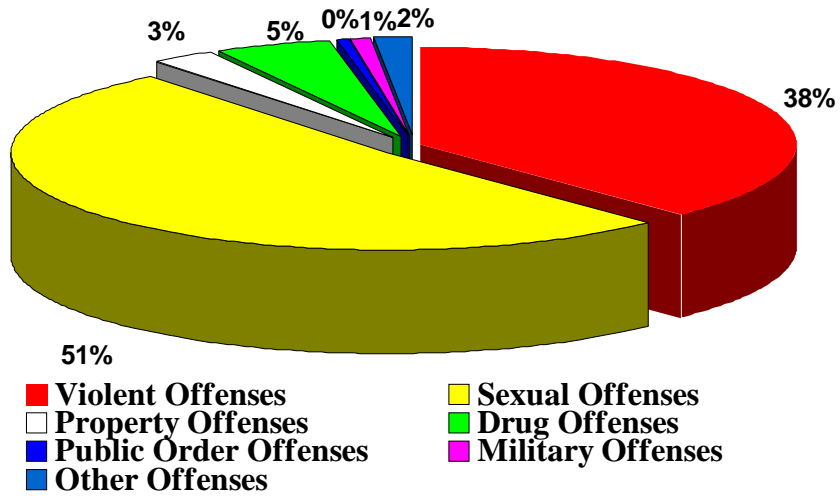
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ENLISTED OFFENSES



Current as of :
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United States Disciplinary Barracks